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C O N F I D E N T I A L SECTION 01 OF 02 ABUJA 001372

SIPDIS

DEPT FOR AF, DRL AND INL

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TAGS: PGOV EPET KCRM PHUM SNAR NI

SUBJECT: ADVANCING THE VOLUNTARY PRINCIPLES IN NIGERIA: USE OF FORCE GUIDELINES FOR POLICE AND MILITARY

REF: ABUJA

Classified by Charge d'affaires Dawn Liberi; reasons 1.5 (b) and (d).

This is an action cable; action request for AF in para 10.

1.(U) The Voluntary Principles on Security and Human rights seek, among other things, to bring companies in the extractive industry and governments of countries in which these companies operate into conformity with international human rights standards regarding the deployment and behavior of public and private security forces.

2.(C) Our discussions with the three multinational companies in Nigeria who are Voluntary Principles stakeholders -- ChevronTexaco, ExxonMobil and Shell -- have revealed that none has codified use of force guidelines in either their internal policies for Nigeria or bilateral agreements with the GON. One company claims it has been advised against producing use of force guidelines by its U.S.-based corporate lawyers, who counsel that such a formal move could expose the company to undue liabilities.

MISUSE OF FORCE

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3.(C) The need for guidelines in Nigeria is evident, however. Even when attempting to do the right thing, the Police often are in the wrong in how they do it. Police training is poor; (see septel for report on Policing in the Niger Delta) however, police personnel are empowered to resort to lethal force in situations where most other police forces would use less drastic means. The standard weapon issued to the average police constable is an automatic rifle, such as an AK-47. Moreover, policemen and women have little understanding of a "force continuum" or the principle of applying minimum force to meet the threat faced. Little middle ground exists between passivity and the use of extreme force.

4.(C) In the oil-producing Delta region, improper use of force has been frequent. Most police and army personnel are deployed there to protect oil company interests against threats that often emanate from the Delta communities. In an environment where tensions and frustrations are high, the police, army and the local populace develop a mutually hostile view that reinforced the penchant for these security elements to resort to excessive force. Domestic and International Human Rights organizations have reported extensively on the Delta and have documented many of these cases.

5.(C) The oil companies operating in the Delta region recognize however, sometimes reluctantly, that they must assume partial responsibility for the behavior of the police force deployed for their protection. Company interests dictate this because when human rights incidents occur at the hands of police or military assigned to oil installations, it is the companies that receive intense negative publicity. As a consequence, in recent discussions with Mission officers, the companies have shown greater interest in addressing the training needs of the police -- who most often are the first people to encounter disgruntled members of their host communities. In particular, they also recognize the utility for formal commitments and adherence to use of force guidelines by both the GON and the companies themselves.

SHELL OUT IN FRONT

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16. While Shell does not have a formal agreement with the GON, it does have a global (not Nigeria-specific) set of use of force Guidelines. It also has developed "Rules for Guidance in the Use of Firearms by the Police" which it has put down on a small (3" X 5") two-sided, laminated card for distribution to Nigerian police personnel assigned to Shell installations. On one side are the guidelines, including minimal force practices to handle disturbances. Supplementing the Shell guidelines is Nigerian Police Force Order Number 237, an internal use of force SOP, to which police members must adhere. This Force Order 237 is paraphrased on the other side of the Shell guidelines.

7.(C) The effort to disseminate and train Nigerian police pursuant to the guidelines is admirable. The link to Nigerian Police Force order Number 237, however, raises concerns. INL/ICITAP police advisors have found Force Order 237 to be inconsistent with standards established by the ICRC, the UN Convention on Human Rights, UN Code of Conduct for Law Enforcement Officials, the UN Guidelines on Use of Force, and the African Charter, all of which the GON subscribes to. Force Order 237 allows police to use lethal force against any "riotous" crowd of 12 or more, whether they are armed or not. The Force Order further instructs police personnel to shoot demonstrators below the knees and to "neutralize group ringleaders. Although Shell did not include these provisions in paraphrasing the Force Order, we believe the order should not be mentioned in the Company's guidelines.

ROADMAP AND COMMENT

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8.(C) To promote adherence to the Voluntary Principles, the Mission believes the USG should encourage the companies to enter formal agreements with the GON or to develop internal use of force guidelines that could be used for Nigerian military and police personnel assigned to oil installations. Agreements are preferred; they would allow companies to obtain control over the security personnel deployed to their facilities, including the right to reject personnel who have been involved in past human rights incidents.

9.(C) After the companies have gotten on board, we would then initiate close collaboration with top GON police and military leaders aimed at producing formal GON commitments to the guidelines for security forces found in the Voluntary Principles. We should encourage the GON to revise or rewrite Force Order 237 to eliminate its inconsistencies with several international human rights charters and conventions. We could provide technical assistance to accomplish this. We are under no delusion. These reforms will be strenuously resisted in some quarters and may take sustained efforts and a long time to accomplish.

10.(C) Action Request: Post would like the Department's comments on the two step approach stated in para 8 and 9.

LIBERI